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Jason A. Little, Esq. (JL7573)

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

In Re:

Case No. 13-42974 (ess)
(Chapter 7)

JULIAN SALIM,

Debtor.

VW CREDIT, INC.

Plaintiff,

Adv. Proc. No. 13-01442 (ess)

v.

JULIAN SALIM

Defendant.

**VW CREDIT, INC.'S NOTICE OF MOTION FOR SUMMARY
JUDGMENT PURSUANT TO FED. R. CIV. P. 7056 AND FED R. CIV. P. 56**

PLEASE TAKE NOTICE that Plaintiff, VW Credit, Inc. ("VCI"), by its counsel, Deily & Glastetter, LLP, hereby moves the Court, pursuant to Fed. R. Bankr. P. 7056 and Fed. R. Civ. P. 56, before the Honorable Elizabeth S. Stong, at the United States Bankruptcy Court for the Eastern District of New York, at 271 Cadman Plaza East, Brooklyn, New York, on **July 16, 2014 at 9:30 a.m.**, or as soon thereafter as counsel may be heard, for an Order and Judgment granting VCI summary judgment against Defendant, Julian Salim, determining the entire judgment debt owed by Defendant, Julian Salim, to Plaintiff, VW Credit, Inc., to be non-

dischargeable 11 U.S.C. §§ 523(a)(4) and (a)(6), and for any such other and further relief the Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 9006-1, any party wishing to oppose or otherwise respond to the Motion must serve a written response so as to be received not later than seven (7) days before the hearing date and must file said response with the Court Clerk no later than one (1) day after the date of service.

PLEASE TAKE FURTHER NOTICE that, in support thereof, VCI shall rely on the accompanying Memorandum of Law, Declaration of Counsel and Affidavit(s), with all exhibits thereto.

Dated: Albany, New York
June 11, 2014

DEILY & GLASTETTER, LLP

By: _____

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**DECLARATION IN SUPPORT OF VW CREDIT, INC.'S
MOTION FOR SUMMARY JUDGMENT**

Jason A. Little, an attorney authorized to practice law in this Court, declares under the penalty of perjury pursuant to 28 U.S.C. § 1746, the following:

1. I am an attorney admitted to practice law in this Court and am associated with the law firm of Deily & Glastetter LLP, attorneys for Plaintiff, VW Credit, Inc. ("VCI"), in this action. I submit this Declaration in support of VCI's Motion for Summary Judgment under Fed. R. Bankr. P. 7056 seeking a determination that the debt owed to VCI by Defendant, Julian Salim ("Defendant"), and reduced to judgment by Opinion and Order of the United States District

Court for the Southern District of New York, by the Hon. Paul A. Engelmayer, is non-dischargeable under 11 U.S.C. §§ 523(a)(4) and (6). As counsel for VCI I have first-hand knowledge of the facts set forth below or have gained knowledge by a review of Declarant's law firm's records as kept in the ordinary and normal course of its practice.

2. Attached as **Exhibit 1** is a copy of the Adversary Complaint with exhibits filed by VCI on August 20, 2013 as Adv. Doc. No. 1.

3. Attached as **Exhibit 2** is a copy of the Second Amended Answer filed by Defendant, Julian Salim, on October 17, 2013 as Adv. Doc. No. 11.

4. Attached as **Exhibit 3** is a copy of VCI's First Request for Admissions directed to Defendant, dated November 13, 2013.¹

5. Attached as **Exhibit 4** is a copy of Defendant's response to VCI's First Request for Admissions, dated November 23, 2013 (and filed as of record on that date as Adv. Doc. No. 13).

6. Attached as **Exhibit 5** is a copy of VCI's Second and Supplemental Requests for Admissions directed to Defendant, dated November 20, 2013.

7. Attached as **Exhibit 6** is a copy of Defendant's Reply to Second and Supplemental Request for Admission dated November 23, 2013.

8. Attached as **Exhibit 7** is a copy of a letter to opposing counsel, Attorney George Bassias, dated March 25, 2014, concerning the authenticity of certain appended documents.

¹ VCI attaches as exhibits to this Declaration only Exhibits E, F, G, I, K, M (without exhibits), N, O, P, Q, and R of its First Request for Admissions. The remaining exhibits to the First Request for Admissions are either duplicated as separate exhibits herein, are matters of record or are not germane to the instant motion.

9. Attached as **Exhibit 8** is a copy of Mr. Bassias's letter dated March 28, 2014 stipulating to the authenticity of documents contained in **Exhibit 7** hereto.

10. Attached as **Exhibit 9** is a copy of the docket for the related matter captioned VW Credit, Inc. v. Julian Salim, et al., No. 11-cv-01950 (S.D.N.Y.).

11. Attached as **Exhibit 10** is a copy of the Opinion & Order of the Hon. Paul A. Engelmayer, dated March 14, 2012 in the related matter captioned VW Credit, Inc. v. Julian Salim, et al., No. 11-cv-01950 (S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as docketed as ECF No. 65.

12. Attached as **Exhibit 11** is a copy of the Opinion & Order Hon. Paul A. Engelmayer , dated November 29, 2012 in the related matter captioned VW Credit, Inc. v. Julian Salim, et al., No. 11-cv-01950 (S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as ECF No. 93.

13. Attached as **Exhibit 12** is a copy of the docket for the related matter captioned In re Big Apple Volkswagen, LLC, No. 11-11388 (Bankr. S.D.N.Y.).

14. Attached as **Exhibit 13** is a copy of the December 10, 2011 Stipulation and Order in the related matter captioned In re Big Apple Volkswagen, LLC, No. 11-11388 (Bankr. S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as ECF No. 146.

15. Attached as **Exhibit 14** is a copy of a UCC Filing Data Report concerning Big Apple Volkswagen, LLC downloaded from the website of the New York State Department of

State on October 14, 2013 and UCC Financing Statements for Louis Cofane, Rabita Salim and Gregorz Samborski.

16. Attached as **Exhibit 15** is a copy of VCI's UCC Financing Statement, file-stamped June 1, 2006 that I downloaded from the website of the New York State Department of State on March 3, 2014.

17. Attached as **Exhibit 16** is a copy of VCI's UCC Financing Statement Amendment (i.e., Continuation), file-stamped March 17, 2011 that I downloaded from the website of the New York State Department of State on March 3, 2014.

18. Attached as **Exhibit 17** is a copy of the docket for the related matter captioned Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

19. Attached as **Exhibit 18** is an abridged transcript of the deposition of Julian Salim in Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

20. Attached as **Exhibit 19** is an abridged transcript of the deposition of Ratiba Salim in Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

21. Attached as **Exhibit 20** is an abridged transcript of the deposition of Wahid Salim in Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

22. Attached as **Exhibit 21** is an abridged transcript of the deposition of Joseph Salim in Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

23. Attached as **Exhibit 22** is an abridged transcript of the deposition of Grzegorz Samborski in Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.).

24. Attached as **Exhibit 23** is the January 27, 2014 Affidavit of Alan Nisselson, Chapter 7 Trustee in Big Apple's bankruptcy and the Plaintiff in a related matter captioned Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as docketed as ECF No. 39.

25. Attached as **Exhibit 24** is a copy of the Local Bankruptcy Rule 7056-1 Statement of Material and Undisputed Facts In Support of Plaintiff's Motion for Partial Summary Judgment in the related matter captioned Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as docketed as ECF No. 40.

26. Attached as **Exhibit 25** is a copy of the Memorandum Decision of the Hon. Robert E. Grossman, dated March 12, 2014 and Order of March 20, 2014 in the related matter captioned Nisselson v. Salim (In re Big Apple Volkswagen, LLC), A.P. No. 11-2251 (Bankr. S.D.N.Y.) that was downloaded from that court's ECF/Pacer system and is docketed as docketed as ECF Nos. 45 and 46.

WHEREFORE, Plaintiff, VW Credit, Inc. respectfully requests this Court grant its motion for summary judgment pursuant to Fed. R. Bankr. P. 7056 against Defendant, Julian Salim, and issue an order and judgment determining the entire judgment debt owed by

Defendant, Julian Salim, to Plaintiff, VW Credit, Inc., is non-dischargeable under 11 U.S.C. §§ 523(a)(4) and (6).

Dated: Albany, New York
June 11, 2014

DEILY & GLASTETTER, LLP

By: _____

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